

REMARKS

Entry of the foregoing amendments, along with reconsideration of this application, are respectfully requested in view of the following remarks.

Interview Summary

The Applicant wishes to express appreciation to Examiner Szpira and Examiner Severson for the courtesies extended during the telephonic interview conducted on January 29, 2009. During the interview the disclosures of International Publication No. WO 98/36785 to Stouder (Stouder) and U.S. Patent No. 5,957,888 to Hinchliffe (Hinchliffe) were discussed in light of the pending claims. Also, potential claim amendments were discussed.

Claims 1-10, 17-23, 27-29, and 32-45 are Allowable Over the Cited Art

Claims 5, 9 and 23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Claims 1-5, 7, 8, 11, 12, 16-19, 22-25, 27-30, 32 and 33 were rejected under 35 U.S.C. § 102(b) as being anticipated by Stouder. Claims 6 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stouder. Claims 9 and 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stouder in view of Hinchliffe. Claims 13-15 and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Stouder in view of U.S. Patent Publication No. 2001/0029353 to Peterson (Peterson). Claims 20 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Stouder in view of U.S. Patent No. 6,875,219 to Arramon et al. (Arramon).

35 U.S.C. § 112 Rejections

Claims 5 and 9 have been amended in order to comply with the requirements of 35 U.S.C. § 112, second paragraph. Claim 30 has been canceled. Accordingly, the Applicant submits that the rejections under 35 U.S.C. § 112, second paragraph, should be withdrawn.

Claim 1 and its dependent claims are allowable

Claim 1 as amended recites “[a] medical device . . . comprising . . . a wedge having a first configuration and a second configuration, the wedge being disposed apart from the second hollow member when the wedge is in the first configuration . . . the wedge being in contact with the second hollow member when the wedge is in the second configuration” As discussed with the Examiners, the cited references (including Stouder, Hinchliffe and Arramon), alone or in proper combination, fail to disclose or suggest a medical device as recited in independent claim 1. Accordingly, the Applicant respectfully submits that independent claim 1, and its dependent claims, are allowable over the cited art.

Claim 29 and its dependent claims are allowable

Claim 29 as amended recites “[a] medical device . . . comprising: . . . [a] first hollow member having a sidewall defining a groove, the groove having a longitudinal portion and a plurality of notches . . . and; . . . [a] second hollow member having a post configured to be disposed within the groove of the first hollow member, . . . the post being configured to slide

along the longitudinal portion of the groove when the second hollow member is adjusted with respect to the first hollow member.” As discussed with the Examiners, the cited references (including Stouder, Hinchliffe and Arramon), alone or in proper combination, fail to disclose or suggest a medical device as recited in independent claim 29. Accordingly, the Applicant respectfully submits that independent claim 29, and its dependent claims, are allowable over the cited art.

CONCLUSION

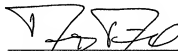
The Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. Prompt and favorable consideration of this application is respectfully requested.

Dated: FEBRUARY 23, 2009

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Respectfully submitted,
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By:

A handwritten signature in black ink, appearing to read 'T. Ford', written over a horizontal line.

Timothy D. Ford

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